IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION No. 1501 OF 2003

Chhaya Dixit .. Petitioner

V/s

The Principal,
Bhavan's Hazarimal Somani College of
Arts & Science & Ors. .. Respondents

AND

WRIT PETITION NO. 1502 OF 2003

Nimisha Modi .. Petitioner

V/s

The Principal,
Bhavan's Hazarimal Somani College of
Arts & Science & Ors. .. Respondents

AND

WRIT PETITION NO. 1503 OF 2003

Myrn C. Halloween .. Petitioner

V/s

The Principal,
Bhavan's Hazarimal Somani College of
Arts & Science & Ors. .. Respondents

AND

WRIT PETITION NO. 1497 OF 2003

Utpala Mody .. Petitioner

V/s

The Principal,
Bhavan's Hazarimal Somani College of
Arts & Science & Ors. .. Respondents

Mr.P.G. Karande for the Petitioners.

Mr.Vatsal J. Mehta i/b Bhaishankar Kanga & Girdharlal for Respondents No.1 and 2.

Mr.Susheel Mahadeshwar for Respondent No.3.

CORAM : H.L. GOKHALE & ABHAY S. OKA, JJ.

DATE : 27TH JANUARY 2006

P.C. :

1. Heard the counsel for the parties.

2. All these Petitioners are working as Lecturers in the college run by the 2nd Respondent under the 3rd Respondent University. The Petitioner in Writ Petition No.1501 of 2003 is M.Sc. & Ph.D. in Chemistry and she has been teaching in that college since 1992. The Petitioner in Writ Petition No.1502 of 2003 is M.Sc. & Ph.D. and has been teaching in that college since 1989. The Petitioner in Writ Petition No.1503 of 2003 is M.A. & M.Phil in English and has been teaching in that college since July 1992. The Petitioner in Writ Petition No.1497 of 2003 is M.A. in Philosophy with First Class and also Ph.D. and has been teaching in that college since July 1992. All of them have been appointed by the 2nd Respondent Management of the 1st

Respondent College in posts which are meant for the reserved category. From the reply filed by the college to the motion, which is taken out in this petition, it is clear that the college has been extending their appointment every year by giving advertisement from time to time and because of non-availability of the persons from the particular reserved community they have been continued. The college has also written to the University and to the State Government for de-reservation of the posts.

3. A number of orders have been passed by different Division Benches of this Court in Writ Petition Nos.1893 of 2000, 2101 of 2000, 1485 of 2001, 850 of 1995 and 1694 of 1998. In all these matters, directions have been given to the University to forward/recommend the regularisation of the concerned teachers to the State Government by recommending de-reservation of the posts. The facts of the present case are similar to all of them. Mr.Mahadeshwar for the University points out that possibly in some of these cases, recommendations might have been forwarded by the University also. All that we say is that if such recommendations are forwarded, the State Government will take decision to de-reserve the posts within 12 weeks. If no such recommendations are forwarded, the University is directed to forward the

same within 4 weeks hereafter and the Government will consider those recommendations and decide them within 12 weeks further. Considering the fact that the college has not been able to get persons from the reserved category for these posts all these 12-13 years, these are fit cases where the Government ought to relax the rules and de-reserve the posts and permit the regularisation of the teachers.

4. We make it clear that in view of this order, none of these teachers will be terminated from their services nor will those posts be advertised until the Government takes appropriate decision on such recommendations. In the event the decision of the Government is adverse to the teachers, the same will not be acted upon for a period of 8 weeks after the same is forwarded to the teachers concerned. The college will be of course at liberty to fill other posts without affecting these Petitioners.

5. Rule is made absolute as above without any order as to costs.

(H.L. GOKHALE, J.)

(ABHAY S. OKA, J.)